

Supreme Court Clears Way for Release Of SEC Complaint Alleging ITT Payoffs

By a Wall Street Journal Staff Reporter

WASHINGTON — The Supreme Court cleared the way for the release of a security and Exchange Commission complaint outlining charges of questionable foreign payments made by International Telephone & Telegraph Corp. (ITT).

The court turned down a bid by ITT for a stay of a lower court order denying the company's request that the SEC complaint be kept under court seal. ITT asked for the stay so that it could seek review of the lower court's refusal to seal the complaint.

At the SEC, an attorney in the SEC general counsel's office said the agency currently is preparing an order for the immediate unsealing of its complaint against ITT. The commission expects to deliver the order today for signature by U.S. District Judge George J. Hart, who originally blocked the release of the SEC charges, the attorney said. But it is still unclear when the documents will be released for public disclosure.

Meanwhile, the Justice Department declined to appeal a district judge's ruling that limited special screening procedures in the trial of an ITT executive. Federal Judge Arthur Robinson last week denied a request designed to protect the disclosure of what he government believes are sensitive national security matters in the prosecution of Robert Berrellez for perjury regarding

ITT's activities in Chile. A department official said that if the appeal is unsuccessful, it may drop the case entirely.

Both ITT and the SEC have indicated that the complaint provides details of about \$9 million in alleged foreign payoffs by ITT and certain of its European subsidiaries. But release of the complaint had been prevented by temporary stays granted by the lower court.

ITT contended that the SEC, by including details of the payments in the complaint, is seeking to grant "victory to itself" without any judicial consideration of the merits of the disclosure issue. The company argued that the details the SEC has presented in the complaint are the same "internal" facts whose nondisclosure is at issue in the agency's suit.

Once the contents of the complaint are disclosed, ITT contended, "no controversy will remain" for it to bring to the Supreme Court for review. The company asserted that publication of the details in the complaint "would preempt the disclosure issue and threaten substantial commercial injury

to the corporation's business."

The company, which has disclosed the existence of payments between 1970 and 1975 but has declined to identify the persons or countries involved, insists that further disclosure isn't required by federal securities laws. It maintained that it has "continuously enforced since March 1976 a prohibition by its board against any further such transactions."

ITT argued that a delay in the disclosure of the details in the complaint, pending trial, wouldn't hurt anything since the practices alleged "have long since been terminated" and the "substantive conduct involved" has been prohibited by the recent Foreign Corrupt Practices Act.

The SEC responded that the harm ITT claimed it would suffer from the release of the complaint wasn't "distinguishable from the harm suffered by any company subject to government enforcement action, which necessarily involves an accusation of wrongdoing in a public forum." Such harm, the SEC insisted, didn't "justify a stay."

The federal appeals court here dismissed ITT's appeal of Judge Hart's refusal to seal the complaint on grounds that the order wasn't a final decision in the case and therefore wasn't appealable.

A clerk for Judge Hart said the judge intends to consider the proposed order without delay, suggesting that details of allegations

could be divulged rather quickly. However, as of yesterday afternoon, it wasn't clear whether Judge Hart or the local appeals court would have the final say about unsealing the complaint.

Speaking for the appeals court, George Fisher, its clerk, said the court plans to issue an order for release of the complaint Friday.

The Justice Department's case against Mr. Berrellez involves allegations that the ITT executive lied to a congressional panel and a government agency about the company's efforts in 1970 to block the election of Salvador Allende as president of Chile.

For the Justice Department, the case has become a test of the government's ability to prosecute matters that touch on national security secrets. Prosecutors apparently fear that without strict limits on what can be argued by the defense in the Berrellez case, the trial could disclose damaging details about the Central Intelligence Agency's covert relationships with ITT and certain prominent Chileans.

The government's decision to appeal Judge Robinson's denial of special screening procedures was outlined yesterday by Philip Heymann, assistant attorney general for criminal matters. Mr. Heymann said a new "set of procedures" is necessary to cope with disclosure problems that "will arise again and again" in prosecuting sensitive

cases such as that involving Mr. Berrellez.

Under the pretrial procedures urged by Mr. Heymann, the government would outline in general terms for the judge any sensitive matters that it feared might arise in a case. The defense attorney could then argue, in private before the judge, whether he believed such matters were relevant to a defense in the case. If the judge decided they were irrelevant, the defense attorney wouldn't be allowed to mention them publicly.

As Judge Robinson already has agreed to a few aspects of this proposal, it's possible that even if the Justice Department lost its appeal, it could still go forward with the case. But Mr. Heymann told reporters yesterday that if the appeal isn't successful, it's "likely" the Justice Department would choose to drop its prosecution of Mr. Berrellez.

France Estimates Toll Of Seaman's Strike At \$150 Million a Day

Special to THE WALL STREET JOURNAL
PARIS — The French government said a two-week-old merchant seaman's strike is costing France the equivalent of \$150 million a day.

However, officials said there wasn't any question of the government's intervening in the dispute, which they said must be settled by the unions and the shipping lines.

The government's hands-off attitude indi-

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